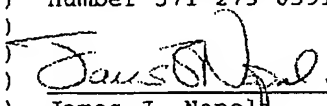


PATENT--FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	) Certificate of Transmission
)
PETER L. OREN ET AL.	) I hereby certify that this
	) correspondence is being
Serial No.: 10/031,464	) facsimile transmitted to
	) the Patent and Trademark
Filed: April 29, 2002	) Office today, October 25,
	) 2006, to Examiner L.
For: β -CARBOLINE PHARMACEUTICAL	) Channavajjala at facsimile
COMPOSITIONS	) number 571-273-0591
)
Attorney Docket No. 29342/36230A) 
	) James J. Napoli
Group Art Unit: 1615	) Registration No. 32,361
)
Examiner: L. Channavajjala	) Attorney for Applicants

**TRANSMITTAL OF TERMINAL DISCLAIMER TO
OBVIATE A DOUBLE-PATENTING REJECTION
OVER AN ISSUED PATENT**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the telephonic interview with Examiner Channavajjala on October 25, 2006, applicants transmit a terminal disclaimer over U.S. Patent No. 6,841,167.

The Commissioner is hereby authorized to charge the \$130.00 Terminal Disclaimer fee to Deposit Account No. 13-2855.

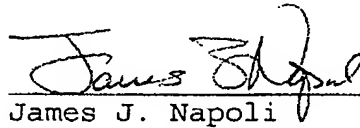
It is submitted that the claims are in proper form and for entry. An early and favorable action on the merits is respectfully requested.

Should the examiner wish to discuss the foregoing, or any matter of form in an effort to advance this application toward allowance, the examiner is urged to telephone the undersigned at the indicated number.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP

By

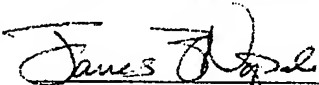


James J. Napoli
(Registration No. 32,361)
Attorneys for Applicants
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 474-6300

Chicago, Illinois
October 25, 2006

PATENT--FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	) Certificate of Transmission
)
PETER L. OREN ET AL.	) I hereby certify that this
	) correspondence is being
Serial No.: 10/031,464	) facsimile transmitted to
	) the Patent and Trademark
Filed: April 29, 2002	) Office today, October 25,
	) 2006, to Examiner L.
For: β -CARBOLINE PHARMACEUTICAL	) Channavajjala at facsimile
COMPOSITIONS	) number 571-273-0591
)
Attorney Docket No. 29342/36230A) 
	) James J. Napoli
Group Art Unit: 1615	) Registration No. 32,361
	) Attorney for Applicants
Examiner: L. Channavajjala)

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE-
PATENTING REJECTION OVER AN ISSUED PATENT**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned, having power of attorney from the assignee, Lilly ICOS LLC, has executed this document on behalf of petitioner, Lilly ICOS LLC. Petitioner is a Delaware corporation, 1209 Orange Street, Wilmington, Delaware 19801, and is the owner of 100% interest in the instant application, as shown by the assignment recorded May 8, 2002, at Reel 12877, Frame 0177. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §154 to §156 and


-§173, as presently shortened by any terminal disclaimer of prior Patent No. 6,841,167. Petitioner also is the owner of 100% interest in U.S. Patent No. 6,841,167 as shown by the assignment recorded on April 15, 2002 at Reel 12818, Frame 0640. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U.S. Patent No. 6,841,167 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §154 to §156 and §173 of prior Patent No. 6,841,167, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; further, these statements are made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereof.

The Commissioner is hereby authorized to credit any overpayment or charge any additional fees which may be required during the pendency of this application under 37 C.F.R. §1.16 or 37 C.F.R. §1.17 or under applicable rules (except payment of issue fees), to Deposit Account No. 13-2855. A copy of this transmittal is enclosed.


James J. Napoli
Registration No. 32,361

Dated: October 25, 2006

☒ The Commissioner is hereby authorized to charge the \$130.00 Terminal Disclaimer fee to Deposit Account No. 13-2855.

MARSHALL, GERSTEIN & BORUN LLP
ATTORNEYS AT LAW
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, ILLINOIS 60606-6357
(312) 474-6300
FAX: (312) 474-0448

10/25/2006

FACSIMILE TRANSMISSION SHEET

TO: L. Channavajjala
U.S. Patent & Trademark Office
571 273 0591

FROM:

RE: Attorney Docket No. 29342/36230A; U.S. Serial No. 10/031,464

PAGES (INCLUDING THIS PAGE): 6

If you do not receive all pages of this fax in good condition, please contact Janet Leathem at (312) 474-6300.

This transmission contains confidential information intended only for the addressee. If you are not the addressee, any disclosure or use of this information by you is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately.